

## REMARKS

Claims 28-45 appear in this application for the Examiner's review and consideration.

Claims 1-27 are canceled.

No new matter is introduced by these amendments since the new claims are supported by the specification and claims as filed. Specifically, support can be found in the specification at, e.g., page 7, lines 14-26; page 7, line 33 to page 8, line 20; page 10, lines 7-11; page 12, lines 5-8 and 23-27; page 13, lines 10-14; page 17, lines 9-14; page 20, lines 9-15; page 21, lines 7-28; and Figs. 23-25.<sup>1</sup>

The Examiner has rejected claims 1-27 under 35 U.S.C. § 102(b) as anticipated by US patent 6,091,546 by Spitzer ("Spitzer"). Applicants respectfully submit that Spitzer does not anticipate any pending claim because this reference does not disclose eyeglasses with earstems of the particular structure and configuration recited in the claims.

Although the Spitzer reference describes eyeglasses with various sensors and a wide array of supporting electronics, in all embodiments, Spitzer's eyeglasses have conventionally shaped earstems. See Spitzer at, e.g., Figs. 1, 11, 13 and 14. Nowhere does Spitzer describe or suggest that his disclosed earstems support a speaker away from a wearer's ear in a manner permitting adjustment "along two axes to be over at least a portion of the wearer's concha, wherein the two axes are inclined with respect to each other and parallel to the wearer's external ear". See Claim 28. Moreover, it is also clear that Spitzer does not disclose either an earstem with "a 'U'-shaped loop . . . [for] slidably retaining the speaker mount", or an earstem with "a linear member on which the speaker mount is slidably retained", or a "speaker mount . . . [with] a rotatably mounted speaker with an axis of rotation eccentric with respect to the speaker mount". See Claims 29-31.

Spitzer does describe that his eyeglasses may have "audio transducers". But these audio "transducers" are not mounted in Spitzer's eyeglasses as recited in the claims. Most descriptions of "audio transducers" are general and lack any details of their mounting. See Spitzer at, e.g., col. 7, lines 28-30; col. 9, lines 49-55; col. 10, lines 5-9. At most, these

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<sup>1</sup> The specification and claims make use of technical anatomic terms describing external ear anatomy. For the Examiner's convenience, these are illustrated in attached Fig. 1 of US patent no. 6,810,987 B1. Reference to the "concha" herein includes the "upper concha" and "lower concha" illustrated in this figure.

generically-described "audio transducers" are illustrated simply as a box fixed to an earstem. See Spitzer at, e.g., Fig. 20, ref. 1004. The remaining description of "audio transducers" concerns "bone conductivity transducers". Such transducers transmit vibrations directly to bone without audible sound.<sup>2</sup> See Spitzer at, e.g., col. 7, lines 34-43. Spitzer describes that they can be mounted in the temple portion of an earstem on a mechanism which slides along this temple portion, which mounting is of course different from that recited in the claims. See Spitzer at, e.g., col. 7, lines 44-51. Clearly, none of these descriptions relating to "audio transducers" discloses the elements recited in the claims.

In summary, Applicants respectfully suggest that Spitzer cannot anticipate this invention. All claims, either directly or by inheritance or by incorporation, require the earstems of claim 1, and Spitzer does not disclose or suggest such earstems.

### CONCLUSION

In view of the above, the application is believed to be in condition for allowance, early notice of which would be appreciated. Should any issues remain, a personal or telephonic interview is respectfully requested to discuss the same in order to expedite the allowance of all the claims in this application.

Respectfully submitted,

9-6-05  
Date

  
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*Attachment*

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<sup>2</sup> Furthermore, "bone conductivity transducers" are not suitable for the present invention. Users of this invention include surgeons, who during surgery usually wear masks, caps, and the like over their faces and heads. See the specification at, e.g., page 8, line 8 to page 9, line 4. Such garments would significantly attenuate or even prevent conduction from a "bone conductivity transducer" to a wearer's bone.